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Co-Lead Class Counsel

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

IN RE HYDROXYCUT  
 MARKETING AND SALES  
 PRACTICES LITIGATION

Case No.: 3:09-MD-02087-BTM(KSC)

ANDREW DREMAK, on Behalf of  
 Himself, All Others Similarly  
 Situated and the General Public,

Case No.: 3:09-CV-01088-BTM(KSC)

**PLAINTIFF'S OPPOSITION TO  
 MOTION TO QUASH SUBPOENAS**

Plaintiff,

vs.

IOVATE HEALTH SCIENCES  
 GROUP, INC., *et al.*,

Dept.: 15B, 15th Floor - Annex  
 Judge: Hon. Barry Ted Moskowitz

Defendants.

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## I. INTRODUCTION

Courts and commentators have recognized the need to take discovery from “professional” or “serial” objectors and their attorneys to determine whether the objectors are actually members of the class, have a legitimate basis for their objections and whether the objection is motivated by self-interest rather than a desire to win significant improvements to the class settlement. *See, e.g., In re Cathode Ray Antitrust Litig.*, 281 F.R.D. 531, 533 (N.D. Cal. 2012); *In re Law Office of Jonathan E. Fortman, LLC*, No. 4:13MC00042, 2013 U.S. Dist. LEXIS 13903, at \*3 (E.D. Mo. Feb. 1, 2013).

Here, after notice was provided to the Class, only one objection was lodged. The objection covers the waterfront – literally every aspect of the settlement is attacked, albeit superficially. The objectors have filed similar objections in the past and one has been represented by the same lawyer representing them here: Darrell Palmer, one of the most prolific serial objector attorneys in the country. *See In re Oil Spill*, No. 12-968, 2013 U.S. Dist. LEXIS 4595, at \*154 (E.D. La. Jan. 11, 2013) (“Mr. Palmer has been deemed a ‘serial objector’ by several courts.”).

Courts, the Manual for Complex Litigation, and commentators have recognized the problem posed by serial objectors. The serial objector files an objection with the purpose of exacting payment in return for dismissing the objection. If the payoff is not made right away, he or she loses the objection and then files a notice of appeal to increase leverage by taking advantage of the accompanying delay.

Mr. Palmer has played this game many dozens of times over the past decade. Even in his Motion to Quash, he describes how it often works: counsel “generally pick up the phone to call an objector’s lawyer to discuss the concerns raised in the objection.” *See* D.E. No. 1641 (“Motion to Quash”) at 2, n.1. The call is not intended to better the settlement, but rather, to negotiate the amount of

1 money Mr. Palmer wants to withdraw the objection.

2 For this reason, the Manual for Complex Litigation advises that courts  
3 should seek to distinguish between legitimate objections, which play an  
4 important role in the class action approval process, and illegitimate ones:

5 Some objections, however, are made for improper purposes, and  
6 benefit only the objectors and their attorneys (e.g., by seeking  
7 additional compensation to withdraw even ill-founded objections).  
8 An objection, even of little merit, can be costly and significantly  
9 delay implementation of a class settlement. Even a weak objection  
10 may have more influence than its merits justify in light of the  
inherent difficulties that surround review and approval of a class  
settlement. Objections may be motivated by self-interest rather than  
a desire to win significant improvements in the class settlement. A  
challenge for the judge is to distinguish between meritorious  
objections and those advanced for improper purposes.

11 *Manual for Complex Litigation* (Fourth) §21.643.

12 As other courts have permitted, Class Counsel seek discovery to assist the  
13 Court in determining whether Mr. Palmer's objection is "advanced for improper  
14 purposes" and to ensure a full and complete record for the appeal that will likely  
15 follow after this Court overrules the objection. Thus, Class Counsel seek to  
16 depose Mr. Blanchard and Ms. McBean and to obtain certain records from Mr.  
17 Palmer.<sup>1</sup>

## 18 **II. THE REQUESTED DISCOVERY**

19 Plaintiff seeks to depose Mr. Blanchard and Ms. McBean on topics  
20 including (1) the basis and reasoning behind their objections; (2) whether Mr.  
21 Blanchard and Ms. McBean have standing as class members to object to the  
22 settlement; and (3) whether they and their counsel are objecting for legitimate or  
23 improper purposes. *See In re Cathode Ray Antitrust Litig.*, 281 F.R.D. at 533  
24 (ordering objector's deposition and document production on "the objector's  
25

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26 <sup>1</sup> At this point, Class Counsel need not depose Mr. Palmer, and request an  
27 opportunity to decide whether a deposition is necessary after the requested  
28 documents have been produced.



standing, the bases for his current objections, his role in objecting to this and other class settlements, and his relationships with the counsel that are believed to be behind the scenes manipulating him”).

Plaintiff also seeks documents from Mr. Palmer relating to his (1) history of objecting to class action lawsuits, (2) history of receiving payments in exchange for dismissing objections to class action settlements, (3) instances in which Mr. Palmer has been sanctioned or had appeal bonds imposed against him or his clients in connection with objections to class action settlements, and (4) the retention of Mr. Blanchard and Ms. McBean in this lawsuit. *See* Ex. E (Subpoena to Mr. Palmer) at p.6.<sup>2</sup> Plaintiff seeks this information “because when assessing the merits of an objection to a class action settlement, courts consider the background and intent of objectors and their counsel, particularly when indicative of a motive other than putting the interest of the class members first.” *In re Law Office of Jonathan E. Fortman, LLC*, 2013 U.S. Dist. LEXIS 13903, at \*3; *see also Manual for Complex Litigation* (Fourth) §21.643 (the court should “distinguish between meritorious objections and those advanced for improper purposes”); Ex. F, *Sullivan v. Kelly Services, Inc.*, No. 08-cv-3893 (N.D. Cal. Aug. 10, 2011) (order granting plaintiff’s motion to depose the custodian of records for Law Offices of Darrell Palmer “regarding any fee agreement between the Law Offices of Darrell Palmer and [the objector]”).

### **III. PROFESSIONAL OBJECTIONS, MR. PALMER AND HIS CLIENTS**

#### **A. Courts Should Identify and Overrule Serial Objections, Not Empower the Objector**

With a serial objection, “the unfortunate game is to lodge pro forma

<sup>2</sup> “Ex. Citations refer to documents attached to the concurrently filed Declaration of Thomas J. O’Reardon II (“O’Reardon Decl.”).



1 objections at the trial stage, then negotiate a private resolution in order to drop  
 2 the invariable notice of appeal. Once the case has progressed beyond the trial  
 3 court, there is no longer any accountability for side payments to objectors'  
 4 counsel, and the game is on." *In re Checking Account Overdraft Litig.*, 830 F.  
 5 Supp. 2d 1330, 1362 n.30 (S.D. Fla. 2011) (internal quotations omitted).  
 6 "[P]rofessional objectors can levy what is effectively a tax on class action  
 7 settlements, a tax that has no benefit to anyone other than to the objectors.  
 8 Literally nothing is gained from the cost: Settlements are not restructured and the  
 9 class, on whose benefit the appeal is purportedly raised, gains nothing." *Barnes*  
 10 *v. Fleet Boston Fin. Corp.*, No. 01-10395, 2006 U.S. Dist. LEXIS 71072, at \*3-4  
 11 (D. Mass. Aug. 22, 2006); *see also Duhaime v. John Hancock Mut. Life Ins. Co.*,  
 12 183 F.3d 1, at 6-7 (1st Cir. 1999) ("[W]e recognize that a class member and his  
 13 or her attorney conceivably could object to a proposed settlement solely to set up  
 14 an appeal designed to obtain a nuisance value recovery and/or advantageous fee  
 15 arrangement."); *Devlin v. Scardelletti*, 536 U.S. 1, 23 n.5 (2002) (Scalia, J.,  
 16 dissenting) (observing that professional objectors' penchant for filing "canned"  
 17 briefs and baseless objections often leads to baseless appeals in the quest for a  
 18 fee); Bruce D. Greenberg, *Keeping the Flies out of the Ointment: Restricting*  
 19 *Objectors to Class Action Settlements*, 84 St. John's L. Rev. 949, 950 (2010)  
 20 (describing how objections are used for improper purposes); Federal Judicial  
 21 Center, Barbara J. Rothstein & Thomas E. Willging, *Managing Class Action*  
 22 *Litigation: A Pocket Guide for Judges*, at 17 (3d ed. 2010) ("be wary of self-  
 23 interested professional objectors"); Alba Conte & Herbert B. Newberg, 5  
 24 *Newberg on Class Actions* §15:37 (4th ed. 2002).

25 The court's role is to determine whether the objection was brought out of a  
 26 true desire to improve the settlement, or for an improper purpose, and overrule  
 27 those brought for an improper purpose. Class Counsel's role is to provide the  
 28

1 court with the information it needs to make this determination, and to ensure an  
2 adequate record is created for the inevitable appeal.

3 **B. Mr. Palmer Is a Serial Objector with a Shameful History**

4 Since approximately 2007, Mr. Palmer has filed objections in at least 79  
5 cases in federal court and an unknown number in state courts. *See* O'Reardon  
6 Decl., ¶3. Courts have deemed Mr. Palmer a serial objector. *See, e.g., In re Oil*  
7 *Spill*, 2013 U.S. Dist. LEXIS 4595, at \*154 n.40; *Heekin v. Anthem, Inc.*, No. 05-  
8 cv-1908, 2013 U.S. Dist. LEXIS 26700, at \*9 (S.D. Ind. Feb. 27, 2013); *Gemelas*  
9 *v. Dannon Co.*, No. 08-cv-236, 2010 U.S. Dist. LEXIS 99503, at \*5 (N.D. Ohio  
10 Aug. 31, 2010); *In re Uponor, Inc.*, No. 11-MD-2247, 2012 U.S. Dist. LEXIS  
11 130140, at \*8-9 (D. Minn. Sept. 11, 2012) (Mr. Palmer “is believed to be a serial  
12 objector to other class-action settlement[s]”). Mr. Palmer admits he “filed  
13 objections in many, many cases.” Ex. G (Fairness Hearing Transcript from *In re*  
14 *Oil Spill*) at pp. 223-24. *See also* Ex. U (Appeal Bond Hearing Transcript in  
15 *Poss v. 21st Century*, No. BC297438 (Los Angeles Super. Ct. April 25, 2011) at  
16 p.18 (noting Mr. Palmer’s history of objecting: “There is a history here, and the  
17 history is not one that you [Mr. Palmer] should be proud of.”).

18 Mr. Palmer repeatedly has been found to engage in bad faith or vexatious  
19 conduct. *In re Uponor, Inc.*, 2012 U.S. Dist. LEXIS 130140, at \*8 (imposing  
20 \$170,000 appeal bond upon finding “that the Palmer Objectors have evidenced  
21 bad faith and vexatious conduct.”); *Heekin*, No. 11-md-2247, 2012 U.S. Dist.  
22 LEXIS 130140, at \*9-10 (bad faith and vexatious conduct); *In re TFT-LCD*  
23 *Antitrust Litig.*, No. 07-1827, 2013 U.S. Dist. LEXIS 23109, at \*59-60 (N.D.  
24 Cal. Feb. 19, 2013) (finding Mr. Palmer and his objector clients (his wife and  
25 aunt) in civil contempt and awarding monetary sanctions for violating order  
26 compelling objectors to appear for deposition); Ex. H *In re MagSafe Apple*  
27 *Power Adapter Litig.*, No. 09-1911, at p. 3 (N.D. Cal. July 6, 2012) (imposing  
28

1 appeal bond upon finding that Mr. Palmer's objections are "without merit"); *City*  
 2 *of Greenville v. Syngenta Crop Prot., Inc.*, No. 10-cv-188, 2012 U.S. Dist.  
 3 LEXIS 130383, at \*9 (S.D. Ill. Sept. 13, 2012) (finding Mr. Palmer's objection  
 4 untimely, but stating court would have "addressed any frivolous objections using  
 5 Rule 11 sanctions.").

6 While representing objectors, Mr. Palmer has had his *pro hac vice* status  
 7 revoked or not approved for concealing that he is a felon who has been  
 8 suspended from practice law by the state bar associations of Arizona, California  
 9 and Colorado. *See* Ex. I (Fairness Hearing Transcript in *Arthur v. Sallie Mae,*  
 10 *Inc.*, No. 10-cv-198 (W.D. Wash. Sept. 14, 2012) ("*Sallie Mae* Hearing  
 11 Transcript")) at p. 8 ("Mr. Palmer improperly certified and declared under  
 12 penalty of perjury that he did not have a disciplinary history."), 10 and 14  
 13 (detailing Mr. Palmer's "several other misrepresentations"); Ex. J (order denying  
 14 Mr. Palmer's *pro hac vice* application in *Herfert v. Crayola, LLC*, No. 11-cv-  
 15 1301 (W.D. Wash. Aug. 17, 2012)); *cf. Heekin*, 2013 U.S. Dist. LEXIS 26700, at  
 16 \*9 (Mr. Palmer withdrew his request to appear *pro hac vice* after the court  
 17 scheduled a conference to discuss his motion); *In re Uponor, Inc.*, 2012 U.S.  
 18 Dist. LEXIS 130140, at \*8-9 ("the Palmer objectors appear to be represented by  
 19 an attorney who has not entered an appearance in this case and who is believed to  
 20 be a serial objector").

21 Mr. Palmer describes objecting to class action settlements as a "hobby,"  
 22 while boasting that he has made "a lot" of money dismissing objections in return  
 23 for payment. *See* Ex. K at 33 minutes ("hobby") and at 44 minutes, 55 seconds  
 24 (money) (audio recording of Darrell Palmer speaking at a CLE panel entitled  
 25 "Melee In Manhattan! Class Action Objectors: Are They Protectors of Absent  
 26 Class Members or Merely Gadflies?" on October 14, 2011); *see also*  
 27 <http://classactionblawg.com/2011/10/17/notes-from-the-15th-annual-national->  
 28

1 institute-on-class-actions/ (discussing the Melee In Manhattan! conference) (last  
2 visited April 8, 2013).

3 Mr. Palmer typically uses the same group of people as objectors. His  
4 objectors include family members such as his wife (who uses her maiden name  
5 when objecting, Alison Haley Paul), his aunt (Leveta Chesser), his brother  
6 (Norman Palmer), and others (Edwin Paul, Judy Paul, Paul Palmer, and Jeffrey  
7 Palmer), as well as employees (Margaret Strohlein). He also borrows objectors  
8 (such as Mr. Blanchard) from the small group of lawyers around the country who  
9 are also serial objectors.

10 **C. Mr. Blanchard and Ms. McBean Have Been Previously Used in**  
11 **Frivolous Objections**

12 Mr. Blanchard has filed at least two objections in 2012, each of which was  
13 overruled. *See* Ex. L (objection in *Fishbein v. All Market Inc. d/b/a Vita Coco*,  
14 No. 11-cv-5580 (S.D.N.Y.)), and Ex. M (objection in *Patch v. Millenium Prods.,*  
15 *Inc.*, No. BC448347 (Los Angeles Cty. Sup. Ct.)). The objections were likely  
16 ghost-written by Christopher Bandas, a Corpus Christi lawyer who frequently  
17 objects with Mr. Palmer and shares in the payoff. *Compare id. with* Ex. W  
18 (objection ghost-written by Christopher Bandas in *In re Reebok EasyTone Litig.*)

19 Here, Mr. Blanchard has not submitted a settlement claim. *See* O'Reardon  
20 Decl., ¶2. If he does not intend to participate in the settlement, why is he  
21 objecting?

22 Ms. McBean previously filed at least one objection in which she was  
23 represented by Mr. Palmer. The objection, which was overruled, was also  
24 superficial. *See* Ex. N (objection in *Arthur v. Sallie Mae, Inc.*, No. 10-cv-198  
25 (W.D. Wash.)). As discussed above, the court in *Sallie Mae* caught Mr. Palmer  
26 concealing his past felony and the various states bar disciplinary actions against  
27 him.

Here, it is unknown whether Ms. McBean actually authorized the objection or knows anything about it. Class Counsel attempted to serve her at two addresses, including the address listed on the settlement claim form submitted in her name. *See* Exs. B-C. At both addresses, the process server was told that she no longer lived at the addresses. Based on the statements of the current resident, she would not have lived at the address listed on the claim form at the time the claim form was submitted. *See* Ex. C. Thus, it is unclear whether Ms. McBean is even aware of the objection. A deposition will provide answers.

#### IV. THE COURT SHOULD PERMIT THE REQUESTED DISCOVERY

Rule 30(a)(1) provides that “[a] party may, by oral questions, depose any person, including a party, without leave of court...” Immediately upon receiving Mr. Palmer’s objection, Class Counsel issued and attempted to serve the subject subpoenas to meet the impending deadlines for final approval briefing.

Contrary to the motion to quash, the subpoenas are not “improper,” “abusive,” “oppressive” or “malicious.” First, the discovery is needed to determine whether the objectors are actually members of the class. If they are not members, they do not have standing to object. *Gould v. Alleco, Inc.*, 883 F.2d 281, 284 (4th Cir. 1989) (“The plain language of Rule 23(e) clearly contemplates allowing only class members to object to settlement proposals.”); *see also San Francisco NAACP v. San Francisco Unified Sch. Dist.*, 59 F. Supp. 2d 1021, 1032 (N.D. Cal. 2001); Alba Conte & Herbert B. Newberg, 4 *Newberg on Class Actions* §11:55 (4th ed. 2002).

In the past, Mr. Palmer has been caught using objectors who were not members of the class. *See, e.g., In re Uponor, Inc.*, 2012 U.S. Dist. LEXIS 130140, at \*8 (“[m]ost critically, the Palmer Objectors are not class members”); Ex. H (Order Granting Appeal Bond in *In re MagSafe Apple Power Adapter Litig.*, No. 09-1911 (N.D. Cal. July 6, 2012)) at p.3 (“[a]s a threshold matter, the

1 Court has significant concern regarding whether Objector Sweeney is even a  
 2 member of the settlement class”); Ex. I (*Sallie Mae* Hearing Transcript) at p.17  
 3 (“it is highly questionable whether [Mr. Palmer’s client] even has standing in this  
 4 action”). As Ms. McBean’s circumstances demonstrate, it is not clear that the  
 5 objectors know anything about the objection, authorized it, support it or have any  
 6 understanding of it.

7 Class Counsel also wish to probe aspects of the objection. For example,  
 8 the objection states:

9 Objection is made to the extent the proponents of this settlement do  
 10 not satisfy their burden of proving commonality, predominance,  
 11 superiority and adequacy of class counsel and class representatives.

12 *See* D.E. No. 1640 at 4. Why would a purchaser of this product seek to defeat  
 13 certification of the class, effectively eliminating his, her and the class’s ability to  
 14 obtain redress for the alleged false advertising? The objection also contends that  
 15 the claims process is “difficult” and “will reduce legitimate, meritorious claims.”  
 16 Someone submitted a claim in Ms. McBean’s name with no apparent difficulty.  
 17 It does not appear that Mr. Blanchard attempted to submit a claim at all. The  
 18 objection is, predictably, silent on any details. Without explanation, the  
 19 objection contends the settlement is insufficient. Why do the objectors think it  
 20 is, if they do at all?

21 Discovery is also appropriate because of the history of Mr. Palmer and his  
 22 clients. The information sought is “relevant to assessing the merits of the  
 23 objection,” because “courts consider the background and intent of objectors and  
 24 their counsel, particularly when indicative of motive other than putting the  
 25 interest of the class members first.” *See In re Law Office of Jonathan E.*  
 26 *Fortman, LLC*, 2013 U.S. Dist. LEXIS 13903, at \*3-4; *see also Manual for*  
 27 *Complex Litigation* (Fourth) §21.643, at p. 326.



1 Taking discovery from serial objectors (as opposed to regular class  
2 members who may object) is commonplace. By interjecting themselves as active  
3 participants in the litigation and possibly delaying the action for years, these  
4 professionals should submit to discovery. In denying a motion to quash brought  
5 by a serial objector, one court explained:

6 I cannot believe that it would be right for someone to be able to  
7 simply file an objection and then not be questioned further about it. .  
8 . . [I]f I were the court looking at this fairness and holding the  
9 Fairness Hearing, I would want to know from Ms. Rivero for  
10 instance, what are the bases of her objection. . . . I do not see that  
11 it's fair that Ms. Rivero can just file an objection and then leave it at  
12 that. And if I were the district court, I would want to know what's  
13 going on and why she filed objections, especially in view of the fact  
14 that she can opt out – but she doesn't want to opt out, she wants to  
15 make a claim and file objections. . . . [Ms. Rivero] has injected  
16 herself into this – the fairness of the settlement by stating that she  
17 has an objection, and I just don't see that there's anything wrong  
18 with trying to go behind that and ask her a few questions.

19 Ex. O at p. 42-43 (motion to quash hearing transcript from *In re Reebok*  
20 *Easystone Litig.*, No. 12-MC-2 (S.D. Tex. Jan. 6, 2012)).

21 Similarly, in *Dennings v. Clearwire Corp.*, No. 10-1859 (W.D. Wash. Dec.  
22 11, 2012), the court ordered depositions where “Plaintiffs have demonstrated  
23 legitimate concerns regarding whether the objections made [] are serious and  
24 whether their attorney is a so-called ‘professional objector.’” *See* Ex. P. *See*  
25 *also In re Static Random Access Memory Antitrust Litig.* (“*In re SRAM*”), No.  
26 M:07-CV-01819, MDL No. 1819, 2011 U.S. Dist. LEXIS 112915, at \*27-28  
27 (N.D. Cal. Sept. 23, 2011) (denying Mr. Palmer’s motion to quash and ordering  
28 his clients to produce documents sought by subpoena (attached hereto as Ex. Q)  
and sit for deposition); Ex. R (order from *Stern v. AT&T Mobility Corp.*, No. 05-  
cv-8842 (C.D. Cal. Oct. 15, 2010) denying Mr. Palmer’s motion to quash and  
ordering his clients to be deposed regarding their “standing, factual allegations



1 supporting objections, and whether objections in other class action cases have  
2 been made by the objectors”).

3 Despite generalized cries of “abuse” and “malice,” Mr. Palmer regularly  
4 loses motions to quash based on the same arguments he makes here. *See In re*  
5 *SRAM*, 2011 U.S. Dist. LEXIS 112915, at \*27-28 (denying Mr. Palmer’s motion  
6 to quash and ordering his clients to produce documents and sit for deposition);  
7 Ex. F (order compelling discovery from Mr. Palmer in *Sullivan v. Kelly Services,*  
8 *Inc.*, No. 08-cv-3893 (N.D. Cal. Aug. 10, 2011)).<sup>3</sup>

9 There many examples where Mr. Palmer steadfastly refuses to comply  
10 with court orders and instead appeals them, demonstrating the need to create a  
11 solid appellate record. The discovery plaintiff seeks will allow us to create that  
12 record.

13 For example, in *In re TFT-LCD Antitrust Litig.*, No. 07-1827 (N.D. Cal.),  
14 Judge Susan Ilston ordered Mr. Palmer and his clients (who were his wife, his  
15 aunt and another serial objector) to sit for deposition. *See* Ex. S. They were then  
16 sanctioned after ignoring the order. *In re TFT-LCD*, 2013 U.S. Dist. LEXIS  
17 23109, at \*59-60. Mr. Palmer then requested 90 days to pay the sanction and a  
18 stay of the order to permit an appeal. The court denied the request. *In re TFT-*  
19 *LCD*, 2013 U.S. Dist. LEXIS 34845, at \*44-45 (N.D. Cal. Mar. 12, 2013); *see*  
20 *also* Ex. T (order to show cause hearing transcript from *In re TFT-LCD*) at p.4.

21 During the hearing on the order to show cause, Judge Ilston questioned  
22 Mr. Palmer about why he ignored the discovery orders:

23  
24  
25 <sup>3</sup> Mr. Palmer nonetheless failed to comply with the order, and the court held Mr.  
26 Palmer in contempt. Mr. Palmer then refused to comply with the court’s  
27 contempt order, claiming “[t]he Northern District simply has no power to  
28 enforce a subpoena outside of the Northern District.” *See In re SRAM*, D.E.  
No. 1399.

**The Court:** Is it not the first time that you've defied a court order?

**Mr. Palmer:** Your Honor, I didn't defy the court order.

**The Court:** You were ordered. You were ordered to produce these folks for deposition.

**Mr. Palmer:** Well, Your Honor --

**The Court:** And you didn't do it.

**Mr. Palmer:** I -- I think that ordering somebody to produce someone else is -- I mean, how can you order me to produce my wife at deposition? That's --

**The Court:** Because you were representing her. She was your client. You undertook to file a claim on her behalf. So I hope you explain to her that the problem is you chose her to be the objector in this case, and not that the Court told you that she needed to give her deposition.

*Id.* at p.12. To date, Mr. Palmer has not paid the sanctions imposed by Judge Ilston. *See In re TFT-LCD*, D.E. No. 7717 (on April 8, 2013, plaintiffs filed a motion for an order to show cause why Mr. Palmer and the objectors should not be held in contempt and further sanctioned).

In *Embry v. ACER America Corp.*, No. 09-cv-1808 (N.D. Cal.), Judge James Ware ordered Mr. Palmer's client (who was himself a serial objector attorney) to dismiss his appeal or post a bond in the amount of \$70,650 because "his objections to the settlement are lacking in merit." *See Ex. U.* Mr. Palmer ignored the order and refused to pay the bond. The court found Mr. Palmer and his client in contempt and struck the objection. Rather than dismiss his appeal, Mr. Palmer included the contempt order in his appeal. Plaintiff moved again for an order requiring, among other things, that Mr. Palmer and his client to (1) sit for deposition, (2) pay attorneys' fees and costs, (3) and disclose the ruling made by Judge Ware in future cases. Mr. Palmer dismissed his appeal shortly after

1 plaintiff's motion for further sanctions was filed. *See Embry*, D.E. Nos. 277,  
2 280.

3 Before Mr. Palmer and his clients appeal an order approving the proposed  
4 settlement and forcing class members to wait to receive the settlement  
5 consideration, the objectors should be deposed and Mr. Palmer should be ordered  
6 to produce the requested documents.

## 7 **V. CONCLUSION**

8 Plaintiff respectfully requests that this Court: (a) deny the Motion to  
9 Quash; (b) command Mr. Palmer to produce the requested documents at the  
10 offices of Blood Hurst & O'Reardon, LLP, 701 B Street, Suite 1700, San Diego,  
11 CA 9210 on or before April 17, 2013, at 12:00 p.m.; (c) command Blanchard to  
12 appear for deposition at US Legal Support, 802 N. Carancahua Street, Suite  
13 2280, Corpus Christi, TX 78401 on April 18, 2013, at 12:00 p.m.; and (d)  
14 command McBean to appear for deposition at Hampton Inn & Suites, 11951  
15 State Highway 267, Truckee, CA 96161 on April 19, 2013, at 12:00 p.m.

17 Dated: April 16, 2013

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 16, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail Notice List.

Executed on April 16, 2013.

*s/ Timothy G. Blood*

TIMOTHY G. BLOOD

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